

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4163 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PARMAR DALABHAI GANESHBHAI

Versus

AHMEDABAD MUNICIPAL CORPN

Appearance:

MR GIRISH PATEL for Petitioners

MR BP TANNA for Respondents.

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 26/12/96

ORAL JUDGEMENT

The petitioners seek a direction on the respondent Municipal Corporation not to cancel the waiting list for the posts of watchmen and to make appointments therefrom and further to restrain the respondents from resorting to contract labour system and if any contract is entered into, not to allow the contractor to appoint any persons other than those appearing in the waiting list of 250 watchmen.

2. The respondent Corporation issued an advertisement in 'Jansatta' daily of 14.7.1981 for recruiting and preparing a waiting list of watchmen. According to the petitioners pursuant to the said advertisement they and others had applied for the posts of watchmen. It is contended that the petitioners were eligible for the said posts and possessed the requisite qualifications and experience. Nearly 5000 candidates applied, of whom 250 were placed in the waiting list. According to the petitioners they were at serial Nos. 136, 88, 191, 186, 211, 131 and 215 respectively in that waiting list. Instead of being appointed as watchmen, they were, however, temporarily appointed as peons in 1982-83. After few months of such temporary appointments, their services were terminated on the ground that it was a stop gap arrangement and there was no work available for them. In May 1983 the respondent Corporation gave another advertisement for recruiting peons in the Corporation but they were not included in the list prepared for recruiting peons.

3. It was contended on behalf of the petitioners that the waiting list prepared by the Corporation for watchmen was not cancelled and should be treated as operative and the vacant posts of watchmen should be filled in from that list. It was contended that the respondents were estopped from treating the waiting list as cancelled because when they were given temporary posts of peons they were told that if they did not accept the posts of peons, their names would be struck off from the waiting list of watchmen and thus they were compelled to leave their existing job and join the Corporation with a hope that they would continue either as peons or as watchmen.

4. The advertisement which was given by the respondent Corporation, a copy of which is at Annexure-A to the petition, was for preparation of waiting list for the posts of watchmen. Those applications were invited so as to reach before 7.8.1981. There was no mention of any existing vacancies to be filled in, in that advertisement. One of the requirements was that the applicants should be within the age (18 and 45 years). It is not the petitioners' case that any appointments were made to the posts of watchmen from that waiting list. It appears that the waiting list was never operated. In fact those who were near the age limit of 45 years in August 1981 when they made application, would be, after the lapse of about 16 years, around 60 years of age. It would therefore be too much to expect the Corporation to operate the list at this distant point of

time. Mere inclusion in the waiting list did not create any right in favour of the petitioners for appointment to the post of watchman. The petitioners cannot insist that the waiting list should be kept alive or that appointments should be made from such waiting list. It is not as if any person junior to any of these petitioners was appointed from that waiting list. Therefore, no right of the petitioners is affected by non-operation of the waiting list. It was open to the petitioners not to accept the temporary appointments as peons. Since the appointments of peons were only a stop gap arrangement, the petitioners cannot resort to the doctrine of promissory estoppel against the respondent Corporation for seeking appointments as watchmen from the waiting list which was prepared for watchmen but was never operated.

5. Under the circumstances, the petitioners have failed to make out any case which would entitle them to a direction on the respondents for treating the waiting list prepared in 1981 as operative. The petition is therefore rejected. Rule is discharged with no order as to costs.

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